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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,667	03/29/2004	Derrick Douglas Little	9D-RG-20087 CIP	2435
7590 John S. Beulick Armstrong Teasdale LLP One Metropolitan Square, Suite 2600 St. Louis, MO 63102			EXAMINER SUERETH, SARAH ELIZABETH	
			ART UNIT 3749	PAPER NUMBER
			MAIL DATE 08/29/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/811,667

Applicant(s)

LITTLE ET AL.

Examiner

Sarah Suereth

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS; WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-7,10-16,18-22 and 25-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-7,10-16,18-22 and 25-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/21/07 has been entered.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the venting portion overlapping a portion of the cooktop must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering

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of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1,3-7,16,18-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The limitation in the independent claims of a "vent cut defining a recessed corner" is indefinite, because it is unclear what is meant by the limitation. It is unclear how the opening shown in Figure 6 defines a corner. For the purposes of examination, the limitation is regarded as meaning that there is an opening adjacent a corner of a cooktop.

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

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6. Claims 3 and 18 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The limitation "a venting portion overlapping a portion of said cooktop" is not described in the specification or depicted in the drawings. It is unclear how the portion of the trim that has vent openings (124) overlaps the cooktop.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1,3-7,16,18-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Taplan et al 5653219.

Taplan discloses: a gas burner (3), a cooktop (2) configured to cover a burner box (5) and having at least one peripheral vent cut (8) configured to vent outside air into the burner box to provide air for the gas burner (10 is the air supply, see Figure 1); and a vent trim (15) attached to said cooktop and covering the vent cut (Figure 6a), said vent trim having a surface with openings above a top surface of the cooktop (col. 2,

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lines 41, 42), wherein said openings are configured to allow outside air to enter the vent cut through the vent trim (col. 2, line 49).

Regarding the limitation "said vent cut defining a recessed corner", as discussed above, the vent cut is regarded as defining a corner, as it serves to define two corners of the cooktop (see Figure 6a, vent trim 15 is attached to two corners of cooktop 2).

The vent cover also has a raised surface isolating the vent opening from spills on the cooktop (col. 1, lines 49-51).

The portions of element 15 in Figure 6a that are horizontally oriented are read as the claimed clip(s).

The small diagonal pieces shown in Figures 6b and 6c that serve to join element 16 to the surface of the cooktop are regarded as the attachment portion, and the top surface of element 16 including the perforations is regarded as the vent portion.

Regarding claims 3 and 18, the vent portion overlaps the cooktop surface to the extent applicant's invention does.

Regarding claims 3, 8 and 18, the vent trim is sealed in water-tight engagement (col. 1, lines 48).

Regarding claims 4 and 19, the seal is adhesive tape (col. 2, line 64).

Regarding claims 6,7, 17, 21 and 22, the vent extends along an entire side, so the vent cut necessarily includes two corners of the cooktop.

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9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims 10-12, 14-15, 25-27, 29, 30 are rejected under 35 U.S.C. 102(e) as being unpatentable over Taplan et al 6807962.

Taplan discloses: a gas burner (12), a cooktop (1) configured to cover a burner box (Figure 1D, element 91) and having at least one peripheral vent cut (Figure 5, element 7) configured to vent outside air into the burner box to provide air for the gas burner (col. 8, line 33); and a vent trim (Figure 11, element 24) attached to said cooktop and covering the vent cut (col. 9, lines 50-53), said vent trim having a surface with openings above a top surface of the cooktop (Figure 11, also see "lattice" in col. 8, line 33), wherein said openings are configured to allow outside air to enter the vent cut through the vent trim (col. 10, line 42).

11. Regarding claims 10 and 25, Figure 11 clearly shows that the vent cover (24) is raised above the top surface of the cooktop (1), and therefore is capable of isolating spills from the vent cover. Also, the vent cover includes a tab portion (Figure 11, upside down L shaped portion of 24 located adjacent to element 25)

12. Regarding claims 12 and 27, the vent cut is along an edge of said cooktop exclusive of a corner of said cooktop (Figure 5).

Regarding claims 14, 15 and 29, the vent trim is sealed in water-tight engagement (col. 8, lines 49-50) with an adhesive tape (see PACTAN, (col. 8, line 56)).

Regarding claim 26, the cover fills the entire gap along a surface of the cooktop (Figure 5), so it must necessarily extend along the entire side.

Claim Rejections - 35 USC § 103

13. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

14. Claims 13 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taplan '962.

15. As discussed above in the 35 U.S.C. 102(e) rejection, Taplan '962 shows one vent cut located at an edge of the cooktop, not a plurality of vent cuts.

16. The courts have held that duplication of parts for amplified effect does not distinguish over the prior art (*In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960), also MPEP 2144.04 B).

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17. In the instant case, the amplified effect would be introducing a larger volume of air into the burner box.

Response to Arguments

18. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.


Conclusion

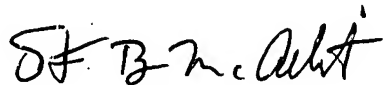
19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah Suereth whose telephone number is (571) 272-9061. The examiner can normally be reached on Tuesdays & Thursdays 8:00AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steve McAllister can be reached on (571) 272-6785. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Sarah Suereth
Examiner
Art Unit 3749


STEVE MCALLISTER
SUPERVISORY PATENT EXAMINER